

## Pt. 806, App. C

GAO—General Accounting Office  
GILS—Government Information Locator Service  
GPO—Government Printing Office  
IDA—Initial Denial Authority  
IG—Inspector General  
IMPAC—International Merchant Purchase Authority Card  
LOA—Letters of Offer and Acceptance  
MAJCOM—Major Command  
MFR—Memorandum for Record  
NATO—North Atlantic Treaty Organization  
NORAD—North American Aerospace Defense  
NTIS—National Technical Information Service  
OCR—Office of Corollary Responsibility  
OMB—Office of Management and Budget  
OPR—Office of Primary Responsibility  
PA—Privacy Act  
PAO—Public Affairs Office  
PAS—Personnel Accounting Symbol  
RCS—Reports Control Symbol  
SAF—Secretary of the Air Force  
SSN—Social Security Number  
USAF—United States Air Force  
U.S.C.—United States Code  
WWW—World Wide Web

### APPENDIX C TO PART 806—TERMS

Appellate Authority—The Office of the General Counsel to the Secretary of the Air Force (SAF/GCA).  
Denial—An adverse determination on no records, fees, expedited access, or not disclosing records.  
Determination—The written decision to release or deny records or information that is responsive to a request.  
Disclosure—Providing access to, or one copy of, a record.  
Disclosure Authority—Official authorized to release records, normally division chiefs or higher.  
FOIA Manager—The person who manages the FOIA Program at each organizational level.  
FOIA Request—A written request for DoD records from the public that cites or implies the FOIA.  
Functional Request—Any request for records from the public that does not cite the FOIA.  
Government Information Locator Service (GILS)—An automated on-line card catalog of publicly accessible information.  
Glomar Response—A reply that neither confirms nor denies the existence or nonexistence of the requested record.  
Initial Denial Authority (IDA)—Persons in authorized positions that may withhold records.  
Partial Denial—A decision to withhold part of a requested record.  
Public Interest—The interest in obtaining official information that sheds light on how an agency performs its statutory du-

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ties and informs citizens about what their government is doing.  
Reading Room—A place where the public may inspect and copy, or have copied, releasable records.  
Records—The products of data compilation, such as all books, papers, maps, and photographs, machine readable materials inclusive of those in electronic form or format, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the U.S. Government under Federal Law in connection with the transaction of public business and in the agency's possession and control at the time the FOIA request is made. Records include notes, working papers, and drafts.  
Redact—To remove nonreleasable material.

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APPENDIX C TO PART 806B—GENERAL AND SPECIFIC EXEMPTIONS

AUTHORITY: Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

SOURCE: 59 FR 53099, Oct. 21, 1994, unless otherwise noted.

## Subpart A—Overview of the Privacy Act Program

### § 806b.1 Basic guidelines.

The Privacy Act of 1974 and this part apply only to information in Air Force systems of records on living United

States citizens and permanent resident aliens.

(a) An official system of records must be:

(1) Authorized by law or Executive Order.

(2) Controlled by an Air Force or lower level directive.

(3) Needed to carry out an Air Force mission or function.

(b) The Air Force does not:

(1) Keep records on how a person exercises First Amendment rights. EX-CEPTIONS are when: The Air Force has the permission of that individual or is authorized by federal statute; or the information pertains to an authorized law enforcement activity.

(2) Penalize or harass an individual for exercising rights guaranteed under the Privacy Act. Give reasonable aid to individuals exercising their rights.

(c) Air Force members:

(1) Keep paper and electronic records containing personal information and retrieved by name or personal identifier only in approved systems published in the FEDERAL REGISTER.

(2) Collect, maintain, and use information in such systems only to support programs authorized by law or Executive Order.

(3) Safeguard the records in the system and keep them the minimum time required.

(4) Keep the records timely, accurate, complete, and relevant.

(5) Amend and correct records on request.

(6) Let individuals review and receive copies of their own records unless the Secretary of the Air Force approved an exemption for the system or the Air Force created the records in anticipation of a civil action or proceeding.

(7) Provide a review of decisions that deny individuals access to or amendment of their records.

### § 806b.2 Violation penalties.

An individual may file a civil suit against the Air Force for failing to comply with the Privacy Act. The courts may find an individual offender guilty of a misdemeanor and fine that individual offender not more than \$5,000 for:

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(a) Willfully maintaining a system of records that doesn't meet the public notice requirements.

(b) Disclosing information from a system of records to someone not entitled to the information.

(c) Obtaining someone else's records under false pretenses.

#### § 806b.3 Personal notes.

If you keep personal notes on individuals to use as memory aids to supervise or perform other official functions, and do not share them with others, and an Air Force directive does not require their maintenance, the Privacy Act does not apply.

#### § 806b.4 Responsibilities.

(a) The Administrative Assistant to the Secretary of the Air Force (SAF/AA) manages the entire program.

(b) The Office of the General Counsel to the Secretary of the Air Force (SAF/GCA) makes final decisions on appeals.

(c) The Director of Information Management (SAF/AAI), through the Access Programs Office of the Policy Division, (SAF/AAIA):

(1) Administers procedures outlined in this part.

(2) Submits system notices and required reports to the Defense Privacy Office.

(3) Guides major commands (MAJCOM) and field operating agencies (FOA).

(d) MAJCOM and FOA commanders, HQ USAF and Deputy Chiefs of Staff (DCS), and comparable officials, and SAF offices implement this part. Each HQ USAF and SAF office appoints a Privacy Act monitor. Send the name, office symbol, and phone number to SAF/AAIA.

(e) MAJCOM and FOA Information Managers:

(1) Manage the program.

(2) Appoint a command Privacy Act officer.

(3) Send the name, office symbol, and phone number to SAF/AAIA.

(f) Privacy Act Officers:

(1) Guide and train.

(2) Review the program at regular intervals.

(3) Submit reports.

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(4) Review all publications and forms for compliance with this part.

(5) Review system notices.

(6) Investigate complaints.

(7) Staff denial recommendations (at MAJCOMs and FOAs only).

(g) System Managers:

(1) Decide the need for, and content of systems.

(2) Manage and safeguard the system.

(3) Train personnel on Privacy Act requirements.

(4) Protect records from unauthorized disclosure, alteration, or destruction.

(5) Prepare system notices and reports.

(6) Answer Privacy Act requests.

(7) Keep records of disclosures.

(8) Evaluate the systems annually.

(h) Privacy Act Monitors (PAM):

(1) Are the focal point in their functional area for general Privacy Act questions and correspondence.

(2) Maintain a list of all systems of records and system managers in their area.

(3) Act as liaison with the Privacy Act Officer.

(4) Maintain statistics for the annual Privacy Act report.

### Subpart B—Obtaining Law Enforcement Records and Promises of Confidentiality

#### § 806b.5 Obtaining law enforcement records.

The Commander AFOSI; the Chief, Air Force Security Police Agency (AFSPA); MAJCOM, FOA, and base chiefs of security police; AFOSI detachment commanders; and designees of those offices may ask another agency for records for law enforcement under 5 U.S.C. 552a(b)(7). The requesting office must indicate in writing the specific part of the record desired and identify the law enforcement activity asking for the record.

#### § 806b.6 Promising confidentiality.

Record promises of confidentiality to exempt from disclosure any 'confidential' information under subsections (k)(2), (k)(5), or (k)(7) of the Privacy Act.

### Subpart C—Collecting Personal Information

#### § 806b.7 How to collect personal information.

Collect personal information directly from the subject of the record when possible. You may ask third parties when:

- (a) You must verify information.
- (b) You want opinions or evaluations.
- (c) You can't contact the subject.
- (d) The subject asks you.

#### § 806b.8 When to give Privacy Act statements (PAS).

- (a) Give a PAS orally or in writing:

(1) To anyone from whom you are collecting personal information that will be put in a system of records.

(2) Whenever you ask someone for his or her Social Security Number (SSN).

NOTE: Do this regardless of how you collect or record the answers. You may display a sign in areas where people routinely furnish this kind of information. Give a copy of the PAS if asked. Do not ask the person to sign the PAS.

- (3) A PAS must include four items:

(i) Authority: The legal authority, that is, the United States Code or Executive Order authorizing the program the system supports.

(ii) Purpose: The reason you are collecting the information.

(iii) Routine Uses: A list of where and why the information will be disclosed outside DoD.

(iv) Disclosure: Voluntary or Mandatory. (Use Mandatory only when disclosure is required by law and the individual will be penalized for not providing information.) Include any consequences of nondisclosure in non-threatening language.

#### § 806b.9 Requesting the social security number (SSN).

(a) Do not deny people a legal right, benefit, or privilege for refusing to give their SSNs unless the law requires disclosure, or a law or regulation adopted before January 1, 1975, required the SSN and the Air Force uses it to verify a person's identity in a system of records established before that date. When you ask for an SSN to create a record, tell the individual:

- (1) The statute, regulation, or rule authorizing you to ask for the SSN.

(2) The uses that will be made of the SSN.

(3) If he or she is legally obligated to provide the SSN.

(b) The Air Force requests an individual's SSN and provides the individual information required by law when anyone enters military service or becomes an Air Force civilian employee. The Air Force uses the SSN as a service or employment number to reference the individual's official records. When you ask someone for an SSN as identification (ID) to retrieve an existing record, you do not have to restate this information.

(c) Executive Order 9397, November 22, 1943, authorizes using the SSN as a personal identifier. This order is not adequate authority to collect an SSN to create a record. When law does not require disclosing the SSN or when the system of records was created after January 1, 1975, you may ask for the SSN, but the individual does not have to disclose it. If the individual refuses to respond, use alternative means of identifying records.

(d) SSNs are personal and unique to each individual. Protect them as FOR OFFICIAL USE ONLY (FOUO). Do not disclose them to anyone without an official need to know.

### Subpart D—Giving Access to Privacy Act Records

#### § 806b.10 Making a request for access.

Persons or their designated representatives may ask for a copy of their records in a system of records. Requesters need not state why they want access to their records. Verify the identity of the requester to avoid unauthorized disclosures. How you verify identity will depend on the sensitivity of the requested records. Persons without access to notary services may use an unsworn declaration in the following format: 'I declare under penalty of perjury (if outside the United States, add 'under the laws of the United States of America') that the foregoing is true and correct. Executed on (date). (Signature).'

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### **§ 806b.11 Processing a request for access.**

Consider a request from an individual for his or her own records in a system of records under both the Freedom of Information Act (FOIA) and the Privacy Act regardless of the Act cited. The requester need not cite any Act. Process the request under whichever Act gives the most information. When necessary, tell the requester under which Act you processed the request and why.

(a) Requesters should describe the records they want. They do not have to name a system of records number, but they should at least name a type of record or functional area. For requests that ask for 'all records about me,' ask for more information and tell the person how to review the Air Force systems of records published in the FEDERAL REGISTER or in AFDIR 37-144<sup>1</sup>, 'Privacy Act Systems of Record' (formerly AFR 4-36).

(b) Requesters should not use government equipment, supplies, stationery, postage, telephones, or official mail channels for making Privacy Act requests. Privacy Act Officers and system managers process such requests but tell requesters that using government resources to make Privacy Act requests is not authorized.

(c) Tell the requester if a record exists and how to review the record. If possible, respond to requests within 10 workdays of receiving them. If you cannot answer the request in 10 workdays, send a letter explaining why and give an approximate completion date no more than 20 workdays after the first office received the request.

(d) Show or give a copy of the record to the requester within 30 workdays of receiving the request unless the system is exempt and the Air Force lists the exemption in appendix C of this part; or published as a final rule in the FEDERAL REGISTER. Give information in a form the requester can understand.

(e) If the requester wants another person present during the record review, the system manager may ask for

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written consent to authorize discussing the record with another person present.

### **§ 806b.12 Fees.**

Give the first 100 pages free, and charge only reproduction costs for the remainder. Copies cost \$.15 per page; microfiche costs \$.25 per fiche. Charge the fee for the first 100 pages if records show that the Air Force already responded to a request for the same records at no charge. Do not charge fees:

(a) When the requester can get the record without charge under another publication (for example, medical records).

(b) For search.

(c) For reproducing a document for the convenience of the Air Force.

(d) For reproducing a record so the requester can review it.

### **§ 806b.13 Denying or limiting access.**

Process access denials within five workdays after you receive a request for access. When you may not release a record, send a copy of the request, the record, and why you recommend denying access (including the applicable exemption) to the denial authority through the Staff Judge Advocate (SJA) and the Privacy Act officer. The SJA gives a written legal opinion on the denial. The MAJCOM or FOA Privacy Act officer reviews the file, gets written advice from the SJA and the functional office of primary responsibility (OPR), and makes a recommendation to the denial authority. The denial authority sends the requester a letter with the decision. If the denial authority grants access, release the record. If the denial authority refuses access, tell the requester why and explain pertinent appeal rights.

(a) Before you deny a request for access to a record, make sure that:

(1) The system has an SAF approved exemption.

(2) The exemption covers each document.

(3) Nonexempt parts are segregated.

(b) You may refuse to give out medical records if a physician believes that doing so could harm the person's mental or physical health. You have these options:

<sup>1</sup>Copies may be obtained at cost from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

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(1) Ask the requester to get a letter from a physician to whom you can send the records. Include a letter explaining to the physician that giving the records directly to the individual could be harmful.

(2) Offer the services of a military physician other than one who provided treatment if naming the physician poses a hardship on the individual.

(c) Do not delete third-party information from a record when the subject requests access, except as noted in § 806b.13(d), unless the Air Force covers the record with an established exemption (appendix C of this part). Presume that all information in a file pertains to the subject of the file.

(d) Do not release third-party personal data (such as SSN and home address). This action is not a denial.

(e) Withhold records compiled in connection with a civil action or other proceeding including any action where the Air Force expects judicial or administrative adjudicatory proceedings. This exemption does not cover criminal actions. Do not release attorney work products prepared before, during, or after the action or proceeding.

### § 806b.14 Denial authorities.

These officials or a designee may deny access or amendment of records. Send a letter to SAF/AAIA with the position titles of designees. You must get SAF/AA approval before delegating this authority to a lower level. Send requests for waiver with justification to SAF/AAIA. Authorities are:

(a) DCSs and chiefs of comparable offices or higher level at SAF or HQ USAF.

(b) MAJCOM or FOA commanders.

(c) HQ USAF/DPCP, Pentagon, Washington, DC 20330-5060 (for civilian personnel records).

(d) Commander, Air Force Office of Special Investigations (AFOSI), Washington, DC 20332-6001 (for AFOSI records).

## Subpart E—Amending the Record

### § 806b.15 Amendment reasons.

Individuals may ask to have their records amended to make them accurate, timely, relevant, or complete. System managers routinely correct a

record if the requester can show that it is factually wrong.

### § 806b.16 Responding to amendment requests.

(a) Anyone may request minor corrections orally. Requests for more serious modifications should be in writing.

(b) After verifying the identity of the requester, make the change, notify all known recipients of the record, and inform the individual.

(c) Acknowledge requests within 10 workdays of receipt. Give an expected completion date unless you complete the change within that time. Final decisions must take no longer than 30 workdays.

### § 806b.17 Approving or denying a record amendment.

The Air Force does not usually amend a record when the change is based on opinion, interpretation, or subjective official judgment. This action constitutes a denial, and requesters may appeal. If the system manager decides not to amend or partially amend the record, send a copy of the request, the record, and the recommended denial reasons to the denial authority through the SJA and the Privacy Act officer. SJAs will include a legal opinion.

(a) The MAJCOM or FOA Privacy Act officer reviews the proposed denial, gets a legal opinion from the SJA and written advice from the functional OPR, and makes a recommendation to the denial authority.

(b) The denial authority sends the requester a letter with the decision. If the denial authority approves the request, amend the record and notify all previous recipients that it has been changed. If the authority denies the request, give the requester the statutory authority, reason, and pertinent appeal rights.

### § 806b.18 Seeking review of unfavorable agency determinations.

Requesters should pursue record corrections of subjective matters and opinions through proper channels to the Civilian Personnel Office using grievance procedures or the Air Force Board for Correction of Military Records (AFBCMR). Record correction

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requests denied by the AFBCMR are not subject to further consideration under this part.

### **§ 806b.19 Appeal procedures.**

(a) Individuals may request a denial review by writing to the Secretary of the Air Force through the denial authority within 60 calendar days after receiving a denial letter. The denial authority promptly sends a complete appeal package to SAF/AAIA, including:

- (1) Original appeal letter.
  - (2) Initial request.
  - (3) Initial denial.
  - (4) Copy of the record.
  - (5) Any internal records or coordination actions relating to the denial.
  - (6) Denial authority's comments on the appellant's arguments.
  - (7) Legal reviews.
- (b) If the denial authority reverses an earlier denial and grants access or amendment, notify the requester immediately.
- (c) SAF/AAIA reviews the denial and forwards to SAF/GCA for legal review or staffing to grant or deny the appeal. SAF/GCA tells the requester the final Air Force decision and explains judicial review rights.
- (d) The requester may file a concise statement of disagreement with the system manager if SAF/GCA denies the request to amend the record. SAF/GCA explains the requester's rights when they issue the final appeal decision.

(1) The records should clearly show that a statement of disagreement is filed with the record or separately.

(2) The disputed part of the record must show that the requester filed a statement of disagreement.

(3) Give copies of the statement of disagreement to the record's previous recipients. Inform subsequent record users about the dispute and give them a copy of the statement with the record.

(4) The system manager may include a brief summary of the reasons for not amending the record. Limit the summary to the reasons SAF/GCA gave to the individual. The summary is part of the individual's record, but it is not subject to amendment procedures.

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### **§ 806b.20 Contents of Privacy Act case files.**

Do not keep copies of disputed records in this file. Use the file solely for statistics and to process requests. Do not use the case files to make any kind of determination about an individual. Document reasons for untimely responses. These files include:

- (a) Requests from and replies to individuals on whether a system has records about them.
- (b) Requests for access or amendment.
- (c) Approvals, denials, appeals, and final review actions.
- (d) Coordination actions and related papers.

### **Subpart F—Privacy Act Notifications**

#### **§ 806b.21 When to include a Privacy Act warning statement in publications.**

Include a Privacy Act Warning Statement in each Air Force publication that requires collecting or keeping personal information in a system of records. Also include the warning statement when publications direct collection of the SSN from the individual. The warning statement will cite legal authority and the system of records number and title. You can use the following warning statement: 'This part requires collecting and maintaining information protected by the Privacy Act of 1974 authorized by (U.S.C. citation and or Executive Order number). System of records notice (number and title) applies.'

#### **§ 806b.22 Publishing system notices.**

The Air Force must publish notices in the FEDERAL REGISTER of new, amended, and deleted systems to inform the public of what records the Air Force keeps and give them an opportunity to comment. The Privacy Act also requires submission of new or significantly altered systems to the Office of Management and Budget (OMB) and both houses of the Congress before publication in the FEDERAL REGISTER. This includes:

- (a) Starting a new system.
- (b) Instituting significant changes to an existing system.

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(c) Sending out data collection forms or instructions.

(d) Issuing a request for proposal or invitation for bid to support a new system.

### § 806b.23 Timing of notices.

At least 120 days before the effective start date, system managers must send the system notice to SAF/AAIA on a 5 1/4 or 3 1/2-inch disk in Wordstar (ASCII text file) or Microsoft Word, with a paper copy highlighting any changes through the MAJCOM or FOA Privacy Act Officer. See Appendix B of this part for a sample system notice.

## Subpart G—Protecting and Disposing of Records

### § 806b.24 Protecting records.

Protect information according to its sensitivity level. Consider the personal sensitivity of the information and the risk of loss or alteration. Most information in systems of records is FOR OFFICIAL USE ONLY (FOUO). Refer to AFI 37-131<sup>2</sup>, 'Air Force Freedom of Information Act Program,' for protection methods.

### § 806b.25 Balancing protection.

Balance additional protection against risk and cost. AF Form 3227, 'Privacy Act Cover Sheet', is available for use with Privacy Act material. For example, a password may be enough protection for an automated system with a log-on protocol. Classified computer systems or those with established audit and password systems are obviously less vulnerable than unprotected files or word processors in offices that are periodically empty. Follow AFI 33-202<sup>3</sup>, 'The Air Force Computer Security Program,' for procedures on safeguarding personal information in automated records.

### § 806b.26 Disposing of records.

You may use the following methods to dispose of records protected by the Privacy Act according to records retention schedules:

<sup>2</sup>See footnote 1 to section 806b.11, of this part.

<sup>3</sup>See footnote 1 to section 806b.11, of this part.

(a) Destroy by any method that prevents compromise, such as tearing, burning, or shredding, so long as the personal data is not recognizable and beyond reconstruction.

(b) Degauss or overwrite magnetic tapes or other magnetic medium.

(c) Dispose of paper products through the Defense Reutilization and Marketing Office (DRMO) or through activities who manage a base-wide recycling program. The recycling sales contract must contain a clause requiring the contractor to safeguard privacy material until its destruction and to pulp, macerate, shred, or otherwise completely destroy the records. Originators must safeguard Privacy Act material until it is transferred to the recycling contractor. A federal employee or, if authorized, a contractor employee must witness the destruction. This transfer does not require a disclosure accounting.

## Subpart H—Privacy Act Exemptions

### § 806b.27 Requesting an exemption.

A system manager who believes that a system needs an exemption from some or all of the requirements of the Privacy Act should send a request to SAF/AAIA through the MAJCOM or FOA Privacy Act Officer. The request should detail the reasons for the exemption and the section of the Act that allows the exemption. SAF/AAIA gets approval for the request through SAF/AA and the Defense Privacy Office.

### § 806b.28 Exemption types.

(a) A general exemption frees a system from most parts of the Privacy Act.

(b) A specific exemption frees a system from only a few parts of the Privacy Act.

### § 806b.29 Authorizing exemptions.

Only SAF/AA can exempt systems of records from any part of the Privacy Act. Denial authorities can withhold records using these exemptions only if SAF/AA previously approved and published an exemption for the system in the FEDERAL REGISTER. Appendix C of



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this part lists the systems of records that have approved exemptions.

### § 806b.30 Approved exemptions.

Approved exemptions exist under 5 U.S.C. 552a for:

(a) Certain systems of records used by activities whose principal function is criminal law enforcement (subsection (j)(2)).

(b) Classified information in any system of records (subsection (k)(1)).

(c) Law enforcement records (other than those covered by subsection (j)(2)). The Air Force must allow an individual access to any record that is used to deny rights, privileges or benefits to which he or she would otherwise be entitled by federal law or for which he or she would otherwise be eligible as a result of the maintenance of the information (unless doing so would reveal a confidential source) (subsection (k)(2)).

(d) Statistical records required by law. Data is for statistical use only and may not be used to decide individuals' rights, benefits, or entitlements (subsection (k)(4)).

(e) Data to determine suitability, eligibility, or qualifications for federal service or contracts, or access to classified information if access would reveal a confidential source (subsection (k)(5)).

(f) Qualification tests for appointment or promotion in the federal service if access to this information would compromise the objectivity of the tests (subsection (k)(6)).

(g) Information which the Armed Forces uses to evaluate potential for promotion if access to this information would reveal a confidential source (subsection (k)(7)).

### Subpart I—Disclosing Records to Third Parties

#### § 806b.31 Disclosure considerations.

Before releasing personal information to third parties, consider the consequences, check accuracy, and make sure that no law or directive bans disclosure. You can release personal information to third parties when the subject agrees orally or in writing. Air Force members consent to releasing their home telephone number and ad-

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dress when they sign and check the 'Do Consent' block on the AF Form 624, 'Base/Unit Locator and PSC Directory' (see AFI 37-129<sup>4</sup>, 'Base and Unit Personnel Locators and Postal Directories').

(a) Before including personal information such as home addresses, home phones, and similar information on social rosters or directories, ask for written consent statements. Otherwise, do not include the information.

(b) You must get written consent before releasing any of these items of information:

(1) Marital status.

(2) Number and sex of dependents.

(3) Gross salary of military personnel (see § 806b.32 for releasable pay information).

(4) Civilian educational degrees and major areas of study.

(5) School and year of graduation.

(6) Home of record.

(7) Home address and phone.

(8) Age and date of birth.

(9) Present or future assignments for overseas or for routinely deployable or sensitive units.

(10) Office and unit address and duty phone for overseas or for routinely deployable or sensitive units.

#### § 806b.32 Disclosing information for which consent is not required.

You don't need consent before releasing any of these items:

(a) Information releasable under the FOIA.

(b) Information for use within the Department of Defense by officials or employees with a need to know.

(c) Name.

(d) Rank.

(e) Grade.

(f) Air Force specialty code (AFSC).

(g) Pay (including base pay, special pay, all allowances except Basic Allowance for Quarters (BAQ) and Variable Housing Allowance (VHA)).

(h) Gross salary for civilians.

(i) Past duty assignments.

(j) Present and future approved and announced stateside assignments.

(k) Position title.

<sup>4</sup>See footnote 1 to section 806b.11, of this part.

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(l) Office, unit address, and duty phone number.

(m) Date of rank.

(n) Entered on active duty (EAD) date.

(o) Pay date.

(p) Source of commission.

(q) Professional military education.

(r) Promotion sequence number.

(s) Military awards and decorations.

(t) Duty status of active, retired, or reserve.

(u) Active duty official attendance at technical, scientific, or professional meetings.

(v) Biographies and photos of key personnel.

### § 806b.33 Disclosing other information.

Use these guidelines to decide whether to release information:

(a) Would the subject have a reasonable expectation of privacy in the information requested?

(b) Would disclosing the information benefit the general public? The Air Force considers information as meeting the public interest standard if it reveals anything regarding the operations or activities of the agency, or performance of its statutory duties.

(c) Balance the public interest against the individual's probable loss of privacy. Do not consider the requester's purpose, circumstances, or proposed use.

### § 806b.34 Agencies or individuals to whom the Air Force may release privacy information.

The Air Force may release information without consent to these individuals or agencies:

(a) Agencies outside the Department of Defense for a Routine Use published in the FEDERAL REGISTER. The purpose of the disclosure must be compatible with the purpose in the Routine Use. When initially collecting the information from the subject, the Routine Uses block in the Privacy Act Statement must name the agencies and reason.

(b) The Bureau of the Census to plan or carry out a census or survey under 13 U.S.C. 8.

(c) A recipient for statistical research or reporting. The recipient must give advanced written assurance that

the information is for statistical purposes only.

NOTE: No one may use any part of the record to decide on individuals' rights, benefits, or entitlements. You must release records in a format that makes it impossible to identify the real subjects.

(d) The Archivist of the United States and the National Archives and Records Administration (NARA) to evaluate records for permanent retention. Records stored in Federal Records Centers remain under Air Force control.

(e) A federal, state, or local agency (other than the Department of Defense) for civil or criminal law enforcement. The head of the agency or a designee must send a written request to the system manager specifying the record or part needed and the law enforcement purpose. The system manager may also disclose a record to a law enforcement agency if the agency suspects a criminal violation. This disclosure is a Routine Use for all Air Force systems of records and is published in the FEDERAL REGISTER.

(f) An individual or agency that needs the information for compelling health or safety reasons. The affected individual need not be the record subject.

(g) The Congress, a congressional committee, or a subcommittee, for matters within their jurisdictions.

(h) A congressional office acting for the record subject. A published, blanket Routine Use permits this disclosure. If the material for release is sensitive, get a release statement.

(i) The Comptroller General or an authorized representative of the General Accounting Office on business.

(j) A court order of a court of competent jurisdiction, signed by a judge.

(k) A consumer credit agency according to the Debt Collections Act when a published system notice lists this disclosure as a Routine Use.

(l) A contractor operating a system of records under an Air Force contract. Records maintained by the contractor for the management of contractor employees are not subject to the Privacy Act.

**§ 806b.35 Disclosing the medical records of minors.**

Air Force personnel may disclose the medical records of minors to their parents or legal guardians. The laws of each state define the age of majority.

(a) The Air Force must obey state laws protecting medical records of drug or alcohol abuse treatment, abortion, and birth control. If you manage medical records, learn the local laws and coordinate proposed local policies with the servicing SJA.

(b) Outside the United States (overseas), the age of majority is 18. Unless parents or guardians have a court order granting access or the minor's written consent, they will not have access to minor's medical records overseas when the minor sought or consented to treatment between the ages of 15 and 17 in a program where regulation or statute provides confidentiality of records and he or she asked for confidentiality.

**§ 806b.36 Disclosure accountings.**

System managers must keep an accurate record of all disclosures made from any system of records except disclosures to DoD personnel for official use or disclosures under the FOIA. System managers may use AF Form 771, 'Accounting of Disclosures'.

(a) System managers may file the accounting record any way they want as long as they give it to the subject on request, send corrected or disputed information to previous record recipients, explain any disclosures, and provide an audit trail for reviews. Include in each accounting:

- (1) Release date.
- (2) Description of information.
- (3) Reason for release.
- (4) Name and address of recipient.

(b) Some exempt systems let you withhold the accounting record from the subject.

(c) You may withhold information about disclosure accountings for law enforcement purposes at the law enforcement agency's request.

**§ 806b.37 Computer matching.**

Computer matching programs electronically compare records from two or more automated systems which may include the Department of Defense, another federal agency, or a state or

other local government. A system manager proposing a match that could result in an adverse action against a federal employee must meet these requirements of the Privacy Act:

(a) Prepare a written agreement between participants.

(1) Secure approval of the Defense Data Integrity Board.

(2) Publish a matching notice in the FEDERAL REGISTER before matching begins.

(3) Ensure full investigation and due process.

(4) Act on the information, as necessary.

(b) The Privacy Act applies to matching programs that use records from:

(1) Federal personnel or payroll systems.

(2) Federal benefit programs where matching:

(i) Determines federal benefit eligibility,

(ii) Checks on compliance with benefit program requirements,

(iii) Recovers improper payments or delinquent debts from current or former beneficiaries.

(c) Matches used for statistics, pilot programs, law enforcement, tax administration, routine administration, background checks and foreign counterintelligence, and internal matching that won't cause any adverse action are exempt from Privacy Act matching requirements.

(d) Any activity that expects to participate in a matching program must contact SAF/AAIA immediately. System managers must prepare a notice for publication in the FEDERAL REGISTER with a Routine Use that allows disclosing the information for use in a matching program. Send the proposed system notice to SAF/AAIA. Allow 180 days for processing requests for a new matching program.

(e) Record subjects must receive prior notice of a match. The best way to do this is to include notice in the Privacy Act Statement on forms used in applying for benefits. Coordinate computer matching statements on forms with SAF/AAIA through the MAJCOM Privacy Act Officer.

## Subpart J—Training

### § 806b.38 Who needs training.

The Privacy Act requires training for all persons involved in the design, development, operation and maintenance of any system of records. Some persons may need more specialized training. They include information managers, supervisors, and individuals working with medical, financial, security, and personnel records.

### § 806b.39 Training tools.

Helpful aids include:

(a) AFH 37-146<sup>5</sup>, 'Privacy Act Training', a self-paced course.

(b) 'The Privacy Act of 1974,' a 32-minute film developed by the Defense Privacy Office. Consult your local audiovisual library.

(c) 'A Manager's Overview, What You Need to Know About the Privacy Act'. Contact SAF/AAIA for copies.

NOTE: Formal school training groups that develop or modify blocks of instruction must send the material to SAF/AAIA for coordination.

## Subpart K—Privacy Act Reporting

### § 806b.40 Privacy Act report (RCS: DD-DA&M(A)1379).

By March 1, of each year, MAJCOM and FOA Privacy Act officers must send SAF/AAIA a report covering the previous calendar year. The report includes:

(a) Total number of requests granted in whole.

(b) Total number of requests granted in part.

(c) Total number of requests denied and the Privacy Act exemptions used.

(d) Total number of requests for which no record was found.

(e) Total number of amendment requests granted in whole.

(f) Total number of amendment requests granted in part.

(g) Total number of amendment requests wholly denied.

(h) Specific recommendations for changes to the Act or the Privacy Act Program.

<sup>5</sup>See footnote 1 to section 806b.11, of this<sup>9</sup>See footnote 1 to section B, appendix A to part 806b.

## APPENDIX A TO PART 806b—GLOSSARY OF REFERENCES, ABBREVIATIONS, ACRONYMS, AND TERMS

### Section A—References

a. Privacy Act of 1974, as amended, Pub. L. 93-579, 88 Stat 1896 (5 U.S.C. 552a).

b. 10 U.S.C 8013, 'Secretary of the Air Force: Powers and Duties.'

c. Executive Order 9397, 'Numbering System for Federal Accounts Relating to Individual Persons.'

d. 32 CFR part 806b, 'Air Force Privacy Act Program.'

e. DoD Directive 5400.11<sup>1</sup>, 'Department of Defense Privacy Program.'

f. DoD 5400.11-R<sup>2</sup>, 'Department of Defense Privacy Program.'

g. AFI 33-202<sup>3</sup>, 'The Air Force Computer Security Program' (formerly AFR 205-16).

h. AFRPD 37-1<sup>4</sup>, 'Air Force Information Management.'

i. AFI 37-131<sup>5</sup>, 'Air Force Freedom of Information Act Program' (formerly AFR 4-33).

j. AFI 37-129<sup>6</sup>, 'Base and Unit Personnel Locators and Postal Directories' (formerly AFR 11-24).

k. AFMAN 37-139<sup>7</sup>, 'Disposition of Records' (formerly AFR 4-20, volume 2).

l. AFDIR 37-144<sup>8</sup>, 'Air Force Privacy Act Systems of Records Notices.'

m. AFH 37-146<sup>9</sup>, 'Privacy Act Training.'

### Section B—Definitions Abbreviations and Acronyms

a. AETC - Air Education and Training Command

b. AFA - Air Force Academy

c. AFBCMR - Air Force Board for Correction of Military Records

d. AFISA - Air Force Intelligence Services Agency

e. AFMC - Air Force Materiel Command

f. AFOSI - Air Force Office of Special Investigations

g. AFSC - Air Force Specialty Code

<sup>1</sup>Copies may be obtained at cost from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

<sup>2</sup>See footnote 1 to section B, appendix A to part 806b.

<sup>3</sup>See footnote 1 to section B, appendix A to part 806b.

<sup>4</sup>See footnote 1 to section B, appendix A to part 806b.

<sup>5</sup>See footnote 1 to section B, appendix A to part 806b.

<sup>6</sup>See footnote 1 to section B, appendix A to part 806b.

<sup>7</sup>See footnote 1 to section B, appendix A to part 806b.

<sup>8</sup>See footnote 1 to section B, appendix A to part 806b.

<sup>9</sup>See footnote 1 to section B, appendix A to part 806b.

h. AFSCO – Air Force Security Clearance Office  
 i. AFSPA – Air Force Security Police Agency  
 j. ASCII – American Standard Code for Information Interchange  
 k. BAQ – Basic Allowance for Quarters  
 l. CFR – Code of Federal Regulations  
 m. DCS – Deputy Chief of Staff  
 n. DoD – Department of Defense  
 o. DR&MO – Defense Reutilization and Marketing Office  
 p. EAD – Entered on Active Duty  
 q. FOA – Field Operating Agency  
 r. FOIA – Freedom of Information Act  
 s. FOUO – For Official Use Only  
 t. IG – Inspector General  
 u. IMC – Interim Message Change  
 v. LE – Logistics and Engineering  
 w. MAJCOM – Major Command  
 x. MIRS – Management Information and Research System  
 y. MP – Military Personnel  
 z. MPC – Military Personnel Center  
 aa. NARA – National Archives and Records Administration  
 bb. OMB – Office of Management and Budget  
 et  
 cc. OPR – Office of Primary Responsibility  
 dd. PA – Privacy Act  
 ee. PAM – Privacy Act Monitor  
 ff. PAS – Privacy Act Statement  
 gg. RCS – Reports Control Symbol  
 hh. SAF – Secretary of the Air Force  
 ii. SAF/AA – The Administrative Assistant to the Secretary of the Air Force  
 jj. SAF/AAIA – Policy Division, Directorate of Information Management  
 kk. SAF/GCA – Assistant General Counsel for Civilian Personnel and Fiscal Law  
 ll. SG – Surgeon General  
 mm. SJA – Staff Judge Advocate  
 nn. SP – Security Police  
 oo. SSN – Social Security Number  
 pp. US – United States  
 qq. USAF – United States Air Force  
 rr. U.S.C. – United States Code  
 ss. VHA – Variable Housing Allowance

#### Section C—Terms

a. *Access*. Allowing individuals to review or receive copies of their records.  
 b. *Amendment*. The process of adding, deleting, or changing information in a system of records to make the data accurate, relevant, timely, or complete.  
 c. *Computer matching*. A computerized comparison of two or more automated systems of records or a system of records with non-Federal records to establish or verify eligibility for payments under Federal benefit programs or to recover delinquent debts for these programs.  
 d. *Confidential source*. A person or organization giving information under an express or implied promise of confidentiality made before September 27, 1975.

e. *Confidentiality*. An expressed and recorded promise to withhold the identity of a source or the information provided by a source. The Air Force promises confidentiality only when the information goes into a system with an approved exemption for protecting the identity of confidential sources.

f. *Defense Data Integrity Board*. Representatives from the Services and the Department of Defense who oversee, coordinate, and approve all DoD computer matching programs covered by the Act.

g. *Denial authority*. The individuals with authority to deny requests for access or amendment of records under the Privacy Act.

h. *Disclosure*. Giving information from a system, by any means, to anyone other than the record subject.

i. *Federal benefit program*. A federally funded or administered program for individuals that provides cash or in-kind assistance (payments, grants, loans, or loan guarantees).

j. *Individual*. A living United States citizen or a permanent resident alien.

k. *Matching agency*. The agency that performs a computer match.

l. *Minor*. Anyone under the age of majority according to local state law. If there is no applicable state law, a minor is anyone under age 18. Military members and married persons are not minors, no matter what their chronological age.

m. *Personal identifier*. A name, number, or symbol which is unique to an individual, usually the person's name or SSN.

n. *Personal information*. Information about an individual other than items of public record.

o. *Privacy Act request*. An oral or written request by an individual about his or her records in a system of records.

p. *Recipient agency*. An agency or contractor that receives the records and actually performs the computer match.

q. *Record*. Any information about an individual.

r. *Routine use*. A disclosure of records to individuals or agencies outside the Department of Defense for a use that is compatible with the purpose for which the Air Force created the records.

s. *Source agency*. A federal, state, or local government agency that discloses records for the purpose of a computer match.

t. *System manager*. The official who is responsible for managing a system of records, including policies and procedures to operate and safeguard it. Local system managers operate record systems or are responsible for part of a decentralized system.

u. *System of records*. A group of records containing personal information retrieved by

the subject's name, personal identifier, or individual identifier through a cross-reference system.

v. *System notice*. The official public notice published in the FEDERAL REGISTER of the existence and content of the system of records.

#### APPENDIX B TO PART 806b—PREPARING A SYSTEM NOTICE

The following elements comprise a system of records notice for publication in the FEDERAL REGISTER:

a. *System identifier*. SAF/AAIA assigns the notice number, for example, F011 AFMC A, where 'F' indicates 'Air Force,' the next number represents the series from AFMAN 37-139 regarding records disposition, and the final letter group shows the system manager's command or DCS. The last character 'A' indicates that this is the first notice for this series and system manager.

b. *System name*. Use a short, specific, plain-language title that identifies the system's general purpose (limited to 55 characters).

c. *System location*. Specify the address of the primary system and any decentralized elements, including automated data systems with a central computer facility and input or output terminals at separate locations. Use street address, 2-letter state abbreviations and 9-digit ZIP Codes. Spell out office names. Do not use office symbols.

d. *Categories of individuals covered by the system*. Use nontechnical, specific categories of individuals about whom the Air Force keeps records. Do not use categories like 'all Air Force personnel' unless they are actually true.

e. *Categories of records in the system*. Describe in clear, nontechnical terms, all categories of records in the system. List only documents actually kept in the system. Do not show source documents that are used to collect data and then destroyed. Do not list form numbers.

f. *Authority for maintenance of the system*. Cite the specific law or Executive Order that authorizes the program the records support. Cite the DoD directive or instruction or the Air Force or other instruction that authorizes the system of records. Always include titles with the citations.

NOTE: Executive Order 9397 authorizes using the Social Security Number (SSN). Include this authority whenever the SSN is used to retrieve records.

g. *Purpose(s)*. Describe briefly and specifically what the Air Force does with the information collected.

h. *Routine uses of records maintained in the system including categories of users and the purpose of such uses*. The Blanket Routine Uses published in the Air Force Directory of System Notices apply to all system notices unless you indicate otherwise. Also list each

specific agency or activity outside DoD to whom the records may be released and the purpose for such release.

i. *Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system*.

j. *Storage*. State the medium in which the Air Force keeps the records, for example, in file folders, card files, microfiche, computer, and so on. Storage does not refer to the storage container.

k. *Retrievability*. State how the Air Force retrieves the records, for example, by name, SSN, or personal characteristics (such as fingerprints or voiceprints).

l. *Safeguards*. List the kinds of officials who have immediate access to the system. List those responsible for safeguarding the records. Identify the system safeguards, for example, storage in safes, vaults, locked cabinets or rooms, use of guards, visitor controls, personnel screening, computer systems software, and so on. Describe safeguards fully without compromising system security.

m. *Retention and disposal*. State how long AFMAN 37-139 requires the activity to maintain the record. Indicate when or if the records may be transferred to a Federal Records Center and how long the record stays there. Specify when the Records Center sends the record to the National Archives or destroys it. Indicate how the records may be destroyed.

n. *System manager(s) and address*. List the title and duty address of the system manager. For decentralized systems, show the locations and the position or duty title of each category of officials responsible for any segment of the system.

o. *Notification procedure*. List the title and duty address of the official authorized to tell requesters if their records are in the system. Specify the information a requester must submit, for example, full name, military status, SSN, date of birth, or proof of identity, and so on.

p. *Record access procedures*. Explain how individuals may arrange to access their records. Include the titles or categories of officials who may assist, for example, the system manager.

q. *Contesting records procedures*. SAF/AAIA provides this standard caption.

r. *Record source categories*. Show categories of individuals or other information sources for the system. Do not list confidential sources protected by subsections (k)(2), (k)(5), or (k)(7) of the Act.

s. *Exemptions claimed for the system*. When a system has no approved exemption, write 'none' under this heading. Specifically list any approved exemption including the subsection in the Act.

APPENDIX C TO PART 806b—GENERAL  
AND SPECIFIC EXEMPTIONS

(a) *General exemption.* The following systems of records are exempt under 5 U.S.C. 552a(j)(2):

(1) *System identifier and name:* F124 AF A, Counter Intelligence Operations and Collection Records.

(2) *System identifier and name:* F124 AF C, Criminal Records.

(3) *System identifier and name:* F031 AF SP E, Security Forces Management Information System (SFMIS).

(i) *Exemption:* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws. Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from the following subsections of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) To protect ongoing investigations and to protect from access criminal investigation information contained in this record system, so as not to jeopardize any subsequent judicial or administrative process taken as a result of information contained in the file.

(B) From subsection (c)(3) because the release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(C) From subsection (c)(4) because an exemption is being claimed for subsection (d), this subsection will not be applicable.

(D) From subsection (d) because access to the records contained in this system would inform the subject of an investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection, and would present a serious impediment to law enforcement.

(E) From subsection (e)(4)(H) because this system of records is exempt from individual access pursuant to subsection (j) of the Privacy Act of 1974.

(F) From subsection (f) because this system of records has been exempted from the access provisions of subsection (d).

(G) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Air Force will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Air Force's Privacy Instruction, but will be limited to the extent that the

identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

(4) *System identifier and name:* F124 AF D, Investigative Support Records.

(5) *System identifier and name:* F125 AF A, Correction and Rehabilitation Records.

*Exemption*—Portions of this system that fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of 5 U.S.C. 552a, Sections (c)(3) and (c)(4); (d)(1) through (d)(5); (e)(2) and (e)(3); (e)(4)(G) and (e)(4)(H), (e)(5); (f)(1) through (f)(5); (g)(1) through (g)(5); and (h) of the Act.

*Authority*—5 U.S.C. 552a(j)(2).

*Reason*—The general exemption will protect ongoing investigations and protect from access criminal investigation information contained in this record system so as not to jeopardize any subsequent judicial or administrative process taken as a result of information contained in the files.

(6) *System identifier and name:* F090 AF IG B, Inspector General Records.

(i) *Exemption:* (A) Parts of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws.

(B) Any portion of this system of records which falls within the provisions of 5 U.S.C. 552a(j)(2) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H), and (I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of accounting of disclosure would inform a subject that he or she is under investigation. This information would provide considerable advantage to the subject in providing him or her with knowledge concerning the nature of the investigation and the coordinated investigative efforts and techniques employed by the cooperating agencies. This would greatly impede the Air Force IG's criminal law enforcement.

(B) From subsection (c)(4) and (d), because notification would alert a subject to the fact that an open investigation on that individual is taking place, and might weaken the on-

going investigation, reveal investigative techniques, and place confidential informants in jeopardy.

(C) From subsection (e)(1) because the nature of the criminal and/or civil investigative function creates unique problems in prescribing a specific parameter in a particular case with respect to what information is relevant or necessary. Also, information may be received which may relate to a case under the investigative jurisdiction of another agency. The maintenance of this information may be necessary to provide leads for appropriate law enforcement purposes and to establish patterns of activity which may relate to the jurisdiction of other cooperating agencies.

(D) From subsection (e)(2) because collecting information to the fullest extent possible directly from the subject individual may or may not be practical in a criminal and/or civil investigation.

(E) From subsection (e)(3) because supplying an individual with a form containing a Privacy Act Statement would tend to inhibit cooperation by many individuals involved in a criminal and/or civil investigation. The effect would be somewhat adverse to established investigative methods and techniques.

(F) From subsections (e)(4)(G), (H), and (I) because this system of records is exempt from the access provisions of subsection (d).

(G) From subsection (e)(5) because the requirement that records be maintained with attention to accuracy, relevance, timeliness, and completeness would unfairly hamper the investigative process. It is the nature of law enforcement for investigations to uncover the commission of illegal acts at diverse stages. It is frequently impossible to determine initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light.

(H) From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to law enforcement by revealing investigative techniques, procedures, and existence of confidential investigations.

(I) From subsection (f) because the agency's rules are inapplicable to those portions of the system that are exempt and would place the burden on the agency of either confirming or denying the existence of a record pertaining to a requesting individual might in itself provide an answer to that individual relating to an on-going investigation. The conduct of a successful investigation leading to the indictment of a criminal offender precludes the applicability of established agency rules relating to verification of record, disclosure of the record to that individual,

and record amendment procedures for this record system.

(J) From subsection (g) because this system of records should be exempt to the extent that the civil remedies relate to provisions of 5 U.S.C. 552a from which this rule exempts the system.

(iv) *Authority:* (A) Investigative material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

NOTE: When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

(v) *Reasons:* (A) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d) and (f) because providing access to investigative records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the



early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants.

(F) Consistent with the legislative purpose of the Privacy Act of 1974, the AF will grant access to nonexempt material in the records being maintained. Disclosure will be governed by AF's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal or civil violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

(b) *Specific exemptions.* The following systems of records are subject to the specific exemptions shown:

(1) *Classified records.*

(i) All records in any systems of records that are properly classified according to Executive Orders 11652, 12065 or 12958, are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4)(G), (H), and (I); and (f), regardless of whether the entire system is otherwise exempt or not.

(ii) *Authority.* 5 U.S.C. 552a(k)(1).

(2) *System identifier and name:* F053 AFA C, Admissions and Registrar Records.

(i) *Exemption.* Parts of this system of records (Liaison Officer Evaluation and Selection Panel Candidate Evaluation) are exempt from 5 U.S.C. 552a(d), (e)(4)(H), and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To ensure the frankness of information used to determine whether cadets are qualified for graduation and commissioning as officers in the Air Force.

(3) *System identifier and name:* F035 MPC R, Air Force Personnel Test 851, Test Answer Cards.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f).

(ii) *Authority.* 5 U.S.C. 552a(k)(6).

(iii) *Reasons.* To protect the objectivity of the promotion testing system by keeping the test questions and answers in confidence.

(4) *System identifier and name:* F035 AFA A, Cadet Personnel Management System.

(i) *Exemption.* Parts of this system are exempt from 5 U.S.C. 552a(d), (e)(4)(H), and (f), but only insofar as disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To maintain the candor and integrity of comments needed to evaluate an Air Force Academy cadet for commissioning in the Air Force.

(5) *System identifier and name:* F045 AETC C, Cadet Records.

(i) *Exemption.* Portions of this system (Detachment Professional Officer Course (POC) Selection Rating Sheets; Air Force Reserve Officer Training Corps (AFROTC) Form 0-24-Disenrollment Review; Memoranda for Record and Staff Papers with Staff Advice, Opinions, or Suggestions) are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4)(G) and (H), and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of a confidential source who furnishes information necessary to make determinations about the qualifications, eligibility, and suitability of cadets for graduation and commissioning in the Air Force.

(6) *System identifier and name:* F44 AF SG Q, Family Advocacy Program Records.

(i) *Exemption:* (A) Investigative material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source. NOTE: When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such

material would reveal the identity of a confidential source.

(C) Therefore, portions of the system of records may be exempt pursuant to 5 U.S.C. 552a(c)(3) and (d), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority*: 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons*: From subsections (c)(3) and (d) because the exemption is needed to encourage those who know of exceptional medical or educational conditions or family maltreatments to come forward by protecting their identities and to protect such sources from embarrassment or recriminations, as well as to protect their right to privacy. It is essential that the identities of all individuals who furnish information under an express promise of confidentiality be protected. Granting individuals access to information relating to criminal and civil law enforcement, as well as the release of certain disclosure accounting, could interfere with ongoing investigations and the orderly administration of justice, in that it could result in the concealment, alteration, destruction, or fabrication of information; could hamper the identification of offenders or alleged offenders and the disposition of charges; and could jeopardize the safety and well being of parents and their children. Exempted portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal employment and Federal contracts, and that was obtained by providing an express or implied promise to the source that his or her identity would not be revealed to the subject of the record.

(7) *System identifier and name*: F035 AF MP A, Effectiveness/Performance Reporting System.

(i) *Exemptions*—Brigadier General Selectee Effectiveness Reports and Colonel and Lieutenant Colonel Promotion Recommendations with close out dates on or before January 31, 1991, may be exempt from subsections of 5 U.S.C. 552a(c)(3); (d); (e)(4)(H); and (f).

(ii) *Authority*—5 U.S.C. 552a(k)(7).

(iii) *Reasons*—Subsection (c)(3) because making the disclosure accounting available to the individual may compromise express promises of confidentiality by revealing details about the report and identify other record sources, which may result in circumvention of the access exemption.

Subsection (d) because individual disclosure compromises express promises of confidentiality conferred to protect the integrity of the promotion rating system.

Subsection (e)(4)(H) because of and to the extent that portions of this record system are exempt from the individual access provisions of subsection (d).

Subsection (f) because of and to the extent that portions of this record system are ex-

empt from the individual access provisions of subsection (d).

(8) [Reserved]

(i) *Exemption*. This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f).

(ii) *Authority*. 5 U.S.C. 552a(k)(2).

(iii) *Reasons*. To enforce civil laws, court orders, and the activities of the Departments of Housing and Urban Development and Justice.

(9) *System identifier and name*: F035 AP A, Files on General Officers and Colonels Assigned to General Officer Positions.

(i) *Exemption*. This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4)(G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority*. 5 U.S.C. 552a(k)(7).

(iii) *Reasons*. To protect the integrity of information used in the Reserve Initial Brigadier General Screening Board, the release of which would compromise the selection process.

(10) *System identification and name*: F035 AF MP P, General Officer Personnel Data System.

(i) *Exemption*—Air Force General Officer Promotion and Effectiveness Reports with close out dates on or before January 31, 1991, may be exempt from subsections of 5 U.S.C. 552a(c)(3); (d); (e)(4)(H); and (f).

(ii) *Authority*—5 U.S.C. 552a(k)(7).

(iii) *Reason*—Subsection (c)(3) because making the disclosure accounting available to the individual may compromise express promises of confidentiality by revealing details about the report and identify other record sources, which may result in circumvention of the access exemption.

Subsection (d) because individual disclosure compromises express promises of confidentiality conferred to protect the integrity of the promotion rating system.

Subsection (e)(4)(H) because of and to the extent that portions of this record system are exempt from the individual access provisions of subsection (d).

Subsection (f) because of and to the extent that portions of this record system are exempt from the individual access provisions of subsection (d).

(11) *System identifier and name*: F035 MPC L, Historical Airman Promotion Master Test File.

(i) *Exemption*. This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f).

(ii) *Authority*. 5 U.S.C. 552a(k)(6).

(iii) *Reasons*. To protect the integrity, objectivity, and equity of the promotion testing system by keeping test questions and answers in confidence.

(12) [Reserved]

(13) *System identifier and name:* F124 AFOSI B, Investigative Applicant Processing Records.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect those who gave information in confidence during Air Force Office of Special Investigations (AFOSI) applicant inquiries. Fear of harassment could cause sources not to make frank and open responses about applicant qualifications. This could compromise the integrity of the AFOSI personnel program that relies on selecting only qualified people.

(14) *System identifier and name:* F035 AFB B, Master Cadet Personnel Record (Active/Historical).

(i) *Exemptions.* Parts of these systems are exempt from 5 U.S.C. 552a(d), (e)(4)(H), and (f), but only to the extent that they would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To maintain the candor and integrity of comments needed to evaluate a cadet for commissioning in the Air Force.

(15) *System identifier and name:* F205 AFISA A, Sensitive Compartmented Information Personnel Records.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(a)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons.* To protect the identity of sources to whom proper promises of confidentiality have been made during investigations. Without these promises, sources will often be unwilling to provide information essential in adjudicating access in a fair and impartial manner.

(16) *F124 AFA, Security and Related Investigative Records.*

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of harassment could cause sources to refuse to give this information in the frank and open way needed to pinpoint those areas in an investigation that should be expanded to resolve charges of questionable conduct.

(17) *System identifier and name:* F205 AFSCO A, Special Security Case Files.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclo-

sure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of harassment could cause sources to refuse to give this information in the frank and open way needed to pinpoint those areas in an investigation that should be expanded to resolve charges of questionable conduct.

(18) *System identifier and name:* F205 AF SP A, Special Security Files.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of harassment could cause them to refuse to give this information in the frank and open way needed to pinpoint areas in an investigation that should be expanded to resolve charges of questionable conduct.

(19) *System identifier and name:* F035 AF MP R, Applications for Appointment and Extended Active Duty Files.

(i) *Exemption.* Parts of this system of records are exempt from 5 U.S.C. 552a(d), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of confidential sources who furnish information necessary to make determinations about the qualifications, eligibility, and suitability of health care professionals who apply for Reserve of the Air Force appointment or interservice transfer to the Air Force.

(20) *System identifier and name:* F111 AF JA B, Courts-Martial and Article 15 Records.

(i) *Exemption.* Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from the following subsection of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (e)(5), (e)(8), (f), and (g).

(ii) *Exemption.* Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) from the following subsection of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

(iii) *Authority:* 5 U.S.C. 552a(j)(2) and (k)(2).

(iv) *Reason:* (1) From subsection (c)(3) because the release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(2) From subsection (c)(4) because an exemption is being claimed for subsection (d), this subsection will not be applicable.

(3) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(4) From subsection (e)(1) because in the course of criminal investigations information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(5) From subsection (e)(2) because in a criminal investigation the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(6) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(7) From subsections (e)(4)(G) and (H) because this system of records is exempt from individual access pursuant to subsections (j) and (k) of the Privacy Act of 1974.

(8) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(9) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of intel-

ligence necessary for effective law enforcement.

(10) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(11) From subsection (f) because this system of records has been exempted from the access provisions of subsection (d).

(12) From subsection (g) because this system of records is compiled for law enforcement purposes and has been exempted from the access provisions of subsections (d) and (f).

(13) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Air Force will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Air Force's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

(21) *System identifier and name:* F036 AF DP G, Military Equal Opportunity and Treatment.

(i) *Exemption:* Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source. Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(d), (e)(4)(H), and (f).

(iii) *Authority:* 5 U.S.C. 552a(k)(2)

(iv) *Reasons:* (1) From subsection (d) because access to the records contained in this system would inform the subject of an investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection, and would present a serious impediment to law enforcement. In addition,

granting individuals access to information collected while an Equal Opportunity and Treatment clarification/investigation is in progress conflicts with the just, thorough, and timely completion of the complaint, and could possibly enable individuals to interfere, obstruct, or mislead those clarifying/investigating the complaint.

(2) From subsection (e)(4)(H) because this system of records is exempt from individual access pursuant to subsection (k) of the Privacy Act of 1974.

(3) From subsection (f) because this system of records has been exempted from the access provisions of subsection (d).

(4) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Air Force will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Air Force's Privacy Instruction, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from this system will be made on a case-by-case basis.

[59 FR 53099, Oct. 21, 1994, as amended at 60 FR 36224, July 14, 1995; 61 FR 2917, Jan. 30, 1996; 61 FR 17070, Apr. 9, 1997; 64 FR 72032, Dec. 23, 1999; 66 FR 54930, Oct. 31, 2001; 67 FR 17619, Apr. 11, 2002]

## PART 807—SALE TO THE PUBLIC

Sec.

807.1 General requirements.

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AUTHORITY: 10 U.S.C. 8013.

SOURCE: 55 FR 36631, Sept. 6, 1990, unless otherwise noted.

### § 807.1 General requirements.

(a) Unaltered Air Force publications and forms will be made available to the public with or without charge, subject to the requirements of this part. Base Chiefs of Information Management will set up procedures to meet these needs and will make available Master Publications Libraries for public use according to AFR 4-61. They will also advise requesters that these libraries are available, since in many cases this will satisfy their needs and reduce workloads in processing sales requests. If the item is on sale by the Superintendent of Documents, GPO, refer the request to that outlet. Refer general public requests for Air Force administrative publications and forms to the National Technical Information Service (NTIS), Defense Publication Section, US Department of Commerce, 4285 Port Royal Road, Springfield, VA 22161-0001.

(b) The Air Force does not consider these unaltered publications and forms as records, within the meaning of the Freedom of Information Act (FOIA), as outlined in 5 U.S.C. 552 and implemented by part 806 of this chapter. Refer requests that invoke the FOIA to the chief, base information management, for processing.

(c) Units will process requests under the Foreign Military Sales Program (FMS) as specified in AFR 4-71, chapter 11.

(d) Units will send requests from foreign governments, their representatives, or international organizations to the MAJCOM foreign disclosure policy office and to HQ USAF/CVAII, Washington DC 20330-5000. Also send information copies of such requests to the base public affairs office. Commands will supplement this requirement to include policies pertaining to those items for which they have authority to release.

(e) Units will return a request for non-Air Force items to the requester for submission to appropriate agency.

### § 807.2 Charges for publications and forms.

(a) The Air Force applies charges to all requests unless specifically excluded.